

Introduced by Senator Burton

February 23, 2000

An act to amend Section 511.1 of the Business and Professions Code, to amend Section 1395.6 of the Health and Safety Code, to amend Section 10178.3 of the Insurance Code, and to amend Section 4609 of the Labor Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1732, as introduced, Burton

General Subject: Health care providers: preferred rates.

Existing law, beginning July 1, 2000, requires every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent, upon entering or renewing a provider contract, to disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

This bill would delete the requirement to disclose whether a payor or contracting agent includes a workers' compensation insurer.

Existing law, beginning July 1, 2000, with respect to contracts providing for the payment of preferred reimbursement rates by payors for health care services rendered by health care providers, provides that a provider shall not be excluded from any list of contracted providers that



is sold, leased, transferred, or conveyed to payors that actively encourage the payors’ beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider’s refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors’ beneficiaries to use the list of contracted providers when obtaining medical care. Existing law includes within the definition of “beneficiaries” for workers’ compensation, an employee seeking health care services for a work-related injury.

This bill would delete workers’ compensation from the definition of “beneficiaries.”

This bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 511.1 of the Business and
2 Professions Code is amended to read:

3 511.1. (a) In order to prevent the improper selling,
4 leasing, or transferring of a health care provider’s
5 contract, it is the intent of the Legislature that every
6 arrangement that results in any payor paying a health
7 care provider a reduced rate for health care services
8 based on the health care provider’s participation in a
9 network or panel shall be disclosed to the provider in
10 advance and shall actively encourage patients to use the
11 network, unless the health care provider agrees to
12 provide discounts without that active encouragement.

13 (b) Beginning July 1, 2000, every contracting agent
14 that sells, leases, assigns, transfers, or conveys its list of
15 contracted health care providers and their contracted
16 reimbursement rates to a payor or another contracting
17 agent shall, upon entering or renewing a provider
18 contract, do all of the following:

19 (1) Disclose whether the list of contracted providers
20 may be sold, leased, transferred, or conveyed to other
21 payors or other contracting agents, and specify whether



1 those payors or contracting agents include—workers’
2 ~~compensation insurers or~~ automobile insurers.

3 (2) Disclose what specific practices, if any, payors
4 utilize to actively encourage a payor’s beneficiaries to use
5 the list of contracted providers when obtaining medical
6 care that entitles a payor to claim a contracted rate. For
7 purposes of this paragraph, a payor is deemed to have
8 actively encouraged its beneficiaries to use the list of
9 contracted providers if one of the following occurs:

10 (A) The payor offers its beneficiaries direct financial
11 incentives to use the list of contracted providers when
12 obtaining medical care. “Financial incentives” means
13 reduced copayments, reduced deductibles, premium
14 discounts directly attributable to the use of a provider
15 panel, or financial penalties directly attributable to the
16 nonuse of a provider panel.

17 (B) The payor provides information directly to
18 beneficiaries advising them of the existence of the list of
19 contracted providers through the use of a variety of
20 advertising or marketing approaches that supply the
21 names, addresses, and telephone numbers of contracted
22 providers to beneficiaries in advance of their selection of
23 a health care provider, which approaches may include,
24 but are not limited to, the use of provider directories, or
25 the use of toll-free telephone numbers or internet web
26 site addresses supplied directly to every beneficiary.
27 However, internet web site addresses alone shall not be
28 deemed to satisfy the requirements of this subparagraph.
29 Nothing in this subparagraph shall prevent contracting
30 agents or payors from providing only listings of providers
31 located within a reasonable geographic range of a
32 beneficiary.

33 (3) Disclose whether payors to which the list of
34 contracted providers may be sold, leased, transferred, or
35 conveyed may be permitted to pay a provider’s
36 contracted rate without actively encouraging the payors’
37 beneficiaries to use the list of contracted providers when
38 obtaining medical care.

39 (4) Disclose, upon the initial signing of a contract, and
40 within 30 calendar days of receipt of a written request



1 from a provider or provider panel, a payor summary of all
2 payors currently eligible to claim a provider's contracted
3 rate due to the provider's and payor's respective written
4 agreements with any contracting agent.

5 Nothing in this subdivision shall be construed to require
6 a payor to actively encourage the payor's beneficiaries to
7 use the list of contracted providers when obtaining
8 medical care in the case of an emergency.

9 (c) A contracting agent shall allow providers, upon the
10 initial signing, renewal, or amendment of a provider
11 contract, to decline to be included in any list of contracted
12 providers that is sold, leased, transferred, or conveyed to
13 payors that do not actively encourage the payors'
14 beneficiaries to use the list of contracted providers when
15 obtaining medical care as described in paragraph (2) of
16 subdivision (b). Each provider's election under this
17 subdivision shall be binding on every contracting agent
18 or payor that buys, leases, or otherwise obtains a list of
19 contracted providers.

20 (d) A provider shall not be excluded from any list of
21 contracted providers that is sold, leased, transferred, or
22 conveyed to payors that actively encourage the payors'
23 beneficiaries to use the list of contracted providers when
24 obtaining medical care, based upon the provider's refusal
25 to be included on any list of contracted providers that is
26 sold, leased, transferred, or conveyed to payors that do
27 not actively encourage the payors' beneficiaries to use the
28 list of contracted providers when obtaining medical care.

29 (e) A payor shall provide an explanation of benefits or
30 explanation of review that identifies the name of the plan
31 or network that has a written agreement signed by the
32 provider whereby the payor is entitled, directly or
33 indirectly, to pay a preferred rate for the services
34 rendered.

35 (f) A payor shall demonstrate that it is entitled to pay
36 a contracted rate within 30 business days of receipt of a
37 written request from a provider who has received a claim
38 payment from the payor. The failure of a payor to do so
39 shall render the payor liable for the amount that the
40 payor would have been required to pay pursuant to the



1 contract between the payor and the beneficiary, which
2 amount shall be due and payable within 10 days of receipt
3 of written notice from the provider, and shall bar the
4 payor from taking any future discounts from that
5 provider without the provider’s express written consent
6 until the payor can demonstrate to the provider that it is
7 entitled to pay a contracted rate as provided in this
8 subdivision. A payor shall be deemed to have
9 demonstrated that it is entitled to pay a contracted rate
10 if it complies with either of the following:

11 (1) Discloses the name of the network that has a
12 written agreement with the provider whereby the
13 provider agrees to accept discounted rates, and describes
14 the specific practices the payor utilizes to comply with
15 paragraph (2) of subdivision (b).

16 (2) Identifies the provider’s written agreement with a
17 contracting agent whereby the provider agrees to be
18 included on lists of contracted providers sold, leased,
19 transferred, or conveyed to payors that do not actively
20 encourage beneficiaries to use the list of contracted
21 providers pursuant to subdivision (c).

22 (g) For the purposes of this section, the following
23 terms have the following meanings:

24 (1) “Beneficiary” means:

25 (A) ~~For workers’ compensation, an employee seeking~~
26 ~~health care services for a work-related injury.~~

27 ~~(B) For automobile insurance, a named insured.~~

28 ~~(C)~~

29 (B) For group or individual health care coverage
30 through a health care service plan or a disability insurer,
31 a subscriber or an insured.

32 (2) “Contracting agent” means an individual or entity,
33 including, but not limited to, a third-party administrator
34 or trust, a preferred provider organization, or an
35 independent practice association, while engaged, for
36 monetary or other consideration, in the act of selling,
37 leasing, transferring, assigning, conveying, or arranging
38 the availability of a provider or provider panel to provide
39 health care services to beneficiaries. For purposes of this
40 section, a contracting agent shall not include a health care



1 service plan, a specialized health care service plan, an
2 insurer licensed under the Insurance Code to provide
3 disability, life, *or* automobile, ~~or workers' compensation~~
4 insurance, or a self-insured employer.

5 (3) Except as otherwise provided in this paragraph,
6 "payor" means a health care service plan, a specialized
7 health care service plan, an insurer licensed under the
8 Insurance Code to provide disability, life, *or* automobile;
9 ~~or workers' compensation~~ insurance, a self-insured
10 employer, a third-party administrator or trust, or any
11 other third party that is responsible to pay for health care
12 services provided to beneficiaries. However, for purposes
13 of subdivisions (e) and (f), a payor shall not include a
14 health care service plan, a specialized health care service
15 plan, an insurer licensed under the Insurance Code to
16 provide disability, life, *or* automobile, ~~or worker's~~
17 ~~compensation~~ insurance, or a self-insured employer.

18 (4) "Payor summary" means a written summary that
19 includes the payor's name and the type of plan, including,
20 but not limited to, a group health plan, *and* an automobile
21 insurance plan, ~~and a workers' compensation insurancee~~
22 ~~plan~~.

23 (5) "Provider" means any of the following:

24 (A) Any person licensed or certified pursuant to this
25 division.

26 (B) Any person licensed pursuant to the Chiropractic
27 Initiative Act or the Osteopathic Initiative Act.

28 (C) Any person licensed pursuant to Chapter 2.5
29 (commencing with Section 1440) of Division 2 of the
30 Health and Safety Code.

31 (D) A clinic, health dispensary, or health facility
32 licensed pursuant to Division 2 (commencing with
33 Section 1200) of the Health and Safety Code.

34 (E) Any entity exempt from licensure pursuant to
35 Section 1206 of the Health and Safety Code.

36 (i) This section shall become operative on July 1, 2000.

37 SEC. 2. Section 1395.6 of the Health and Safety Code
38 is amended to read:

39 1395.6. (a) In order to prevent the improper selling,
40 leasing, or transferring of a health care provider's



1 contract, it is the intent of the Legislature that every
2 arrangement that results in any payor paying a health
3 care provider a reduced rate for health care services
4 based on the health care provider's participation in a
5 network or panel shall be disclosed to the provider in
6 advance and shall actively encourage patients to use the
7 network, unless the health care provider agrees to
8 provide discounts without that active encouragement.

9 (b) Beginning July 1, 2000, every contracting agent
10 that sells, leases, assigns, transfers, or conveys its list of
11 contracted health care providers and their contracted
12 reimbursement rates to a payor or another contracting
13 agent shall, upon entering or renewing a provider
14 contract, do all of the following:

15 (1) Disclose to the provider whether the list of
16 contracted providers may be sold, leased, transferred, or
17 conveyed to other payors or other contracting agents, and
18 specify whether those payors or contracting agents
19 include ~~workers' compensation insurers or~~ automobile
20 insurers.

21 (2) Disclose what specific practices, if any, payors
22 utilize to actively encourage a payor's subscribers to use
23 the list of contracted providers when obtaining medical
24 care that entitles a payor to claim a contracted rate. For
25 purposes of this paragraph, a payor is deemed to have
26 actively encouraged its subscribers to use the list of
27 contracted providers if one of the following occurs:

28 (A) The payor offers its subscribers direct financial
29 incentives to use the list of contracted providers when
30 obtaining medical care. "Financial incentives" means
31 reduced copayments, reduced deductibles, premium
32 discounts directly attributable to the use of a provider
33 panel, or financial penalties directly attributable to the
34 nonuse of a provider panel.

35 (B) The payor provides information to subscribers
36 advising them of the existence of the list of contracted
37 providers through the use of a variety of advertising or
38 marketing approaches that supply the names, addresses,
39 and telephone numbers of contracted providers to
40 subscribers in advance of their selection of a health care



1 provider, which approaches may include, but are not
2 limited to, the use of provider directories, or the use of
3 toll-free telephone numbers or internet web site
4 addresses supplied directly to every subscriber. However,
5 internet web site addresses alone shall not be deemed to
6 satisfy the requirements of this subparagraph. Nothing in
7 this subparagraph shall prevent contracting agents or
8 payors from providing only listings of providers located
9 within a reasonable geographic range of a subscriber.

10 (3) Disclose whether payors to which the list of
11 contracted providers may be sold, leased, transferred, or
12 conveyed may be permitted to pay a provider's
13 contracted rate without actively encouraging the payors'
14 subscribers to use the list of contracted providers when
15 obtaining medical care.

16 (4) Disclose, upon the initial signing of a contract, and
17 within 30 calendar days of receipt of a written request
18 from a provider or provider panel, a payor summary of all
19 payors currently eligible to claim a provider's contracted
20 rate due to the provider's and payor's respective written
21 agreement with any contracting agent.

22 Nothing in this subdivision shall be construed to require
23 a payor to actively encourage the payor's subscribers to
24 use the list of contracted providers when obtaining
25 medical care in the case of an emergency.

26 (c) A contracting agent shall allow providers, upon the
27 initial signing, renewal, or amendment of a provider
28 contract, to decline to be included in any list of contracted
29 providers that is sold, leased, transferred, or conveyed to
30 payors that do not actively encourage the payors'
31 subscribers to use the list of contracted providers when
32 obtaining medical care as described in paragraph (2) of
33 subdivision (b). Each provider's election under this
34 subdivision shall be binding on every contracting agent
35 or payor that buys, leases, or otherwise obtains a list of
36 contracted providers.

37 (d) A provider shall not be excluded from any list of
38 contracted providers that is sold, leased, transferred, or
39 conveyed to payors that actively encourage the payors'
40 subscribers to use the list of contracted providers when



1 obtaining medical care, based upon the provider's refusal
2 to be included on any list of contracted providers that is
3 sold, leased, transferred, or conveyed to payors that do
4 not actively encourage the payors' subscribers to use the
5 list of contracted providers when obtaining medical care.

6 (e) A payor shall provide an explanation of benefits or
7 explanation of review that identifies the name of the
8 network that has a written agreement signed by the
9 provider whereby the payor is entitled, directly or
10 indirectly, to pay a preferred rate for the services
11 rendered.

12 (f) A payor shall demonstrate that it is entitled to pay
13 a contracted rate within 30 business days of receipt of a
14 written request from a provider who has received a claim
15 payment from the payor. The failure of a payor to do so
16 shall render the payor liable for the amount that the
17 payor would have been required to pay pursuant to the
18 applicable health care service plan contract covering the
19 enrollee, which amount shall be due and payable within
20 10 days of receipt of written notice from the provider, and
21 shall bar the payor from taking any future discounts from
22 that provider without the provider's express written
23 consent until the payor can demonstrate to the provider
24 that it is entitled to pay a contracted rate as provided in
25 this subdivision. A payor shall be deemed to have
26 demonstrated that it is entitled to pay a contracted rate
27 if it complies with either of the following:

28 (1) Discloses the name of the network that has a
29 written agreement with the provider whereby the
30 provider agrees to accept discounted rates, and describes
31 the specific practices the payor utilizes to comply with
32 paragraph (2) of subdivision (b).

33 (2) Identifies the provider's written agreement with a
34 contracting agent whereby the provider agrees to be
35 included on lists of contracted providers sold, leased,
36 transferred, or conveyed to payors that do not actively
37 encourage beneficiaries to use the list of contracted
38 providers pursuant to subdivision (c).

39 (g) For the purposes of this section, the following
40 terms have the following meanings:



1 (1) "Contracting agent" means a health care service
2 plan or a specialized health care service plan, while
3 engaged, for monetary or other consideration, in the act
4 of selling, leasing, transferring, assigning, conveying, or
5 arranging the availability of a provider or provider panel
6 to provide health care services to subscribers.

7 (3) "Payor" means a health care service plan or a
8 specialized health care service plan.

9 (4) "Payor summary" means a written summary that
10 includes the payor's name and the type of plan, including,
11 but not limited to, a group health plan, an automobile
12 insurance plan, and a workers' compensation insurance
13 plan.

14 (5) "Provider" means any of the following:

15 (A) Any person licensed or certified pursuant to
16 Division 2 (commencing with Section 500) of the
17 Business and Professions Code.

18 (B) Any person licensed pursuant to the Chiropractic
19 Initiative Act or the Osteopathic Initiative Act.

20 (C) Any person licensed pursuant to Chapter 2.5
21 (commencing with Section 1440) of Division 2.

22 (D) A clinic, health dispensary, or health facility
23 licensed pursuant to Division 2 (commencing with
24 Section 1200).

25 (E) Any entity exempt from licensure pursuant to
26 Section 1206.

27 (i) This section shall become operative on July 1, 2000.

28 SEC. 3. Section 10178.3 of the Insurance Code is
29 amended to read:

30 10178.3. (a) In order to prevent the improper selling,
31 leasing, or transferring of a health care provider's
32 contract, it is the intent of the Legislature that every
33 arrangement that results in any payor paying a health
34 care provider a reduced rate for health care services
35 based on the health care provider's participation in a
36 network or panel shall be disclosed to the provider in
37 advance and shall actively encourage patients to use the
38 network, unless the health care provider agrees to
39 provide discounts without that active encouragement.



1 (b) Beginning July 1, 2000, every contracting agent
2 that sells, leases, assigns, transfers, or conveys its list of
3 contracted health care providers and their contracted
4 reimbursement rates to a payor or another contracting
5 agent shall, upon entering or renewing a provider
6 contract, do all of the following:

7 (1) Disclose whether the list of contracted providers
8 may be sold, leased, transferred, or conveyed to other
9 payors or other contracting agents, and specify whether
10 those payors or contracting agents include—~~workers²~~
11 ~~compensation insurers or automobile insurers.~~

12 (2) Disclose what specific practices, if any, payors
13 utilize to actively encourage a payor’s beneficiaries to use
14 the list of contracted providers when obtaining medical
15 care that entitles a payor to claim a contracted rate. For
16 purposes of this paragraph, a payor is deemed to have
17 actively encouraged its beneficiaries to use the list of
18 contracted providers if one of the following occurs:

19 (A) The payor offers its beneficiaries direct financial
20 incentives to use the list of contracted providers when
21 obtaining medical care. “Financial incentives” means
22 reduced copayments, reduced deductibles, premium
23 discounts directly attributable to the use of a provider
24 panel, or financial penalties directly attributable to the
25 nonuse of a provider panel.

26 (B) The payor provides information to beneficiaries
27 advising them of the existence of the list of contracted
28 providers through the use of a variety of advertising or
29 marketing approaches that supply the names, addresses,
30 and telephone numbers of contracted providers to
31 beneficiaries in advance of their selection of a health care
32 provider, which approaches may include, but are not
33 limited to, the use of provider directories, or the use of
34 toll-free telephone numbers or internet web site
35 addresses supplied directly to every beneficiary.
36 However, internet web site addresses alone shall not be
37 deemed to satisfy the requirements of this subparagraph.
38 Nothing in this subparagraph shall prevent contracting
39 agents or payors from providing only listings of providers



1 located within a reasonable geographic range of a
2 beneficiary.

3 (3) Disclose whether payors to which the list of
4 contracted providers may be sold, leased, transferred, or
5 conveyed may be permitted to pay a provider's
6 contracted rate without actively encouraging the payors'
7 beneficiaries to use the list of contracted providers when
8 obtaining medical care.

9 (4) Disclose, upon the initial signing of a contract, and
10 within 30 calendar days of receipt of a written request
11 from a provider or provider panel, a payor summary of all
12 payors currently eligible to claim a provider's contracted
13 rate due to the provider's and payor's respective written
14 agreements with any contracting agent.

15 Nothing in this subdivision shall be construed to require
16 a payor to actively encourage the payor's beneficiaries to
17 use the list of contracted providers when obtaining
18 medical care in the case of an emergency.

19 (c) A contracting agent shall allow providers, upon the
20 initial signing, renewal, or amendment of a provider
21 contract, to decline to be included in any list of contracted
22 providers that is sold, leased, transferred, or conveyed to
23 payors that do not actively encourage the payors'
24 beneficiaries to use the list of contracted providers when
25 obtaining medical care as described in paragraph (2) of
26 subdivision (b). Each provider's election under this
27 subdivision shall be binding on every contracting agent
28 or payor that buys, leases, or otherwise obtains a list of
29 contracted providers.

30 (d) A provider shall not be excluded from any list of
31 contracted providers that is sold, leased, transferred, or
32 conveyed to payors that actively encourage the payors'
33 beneficiaries to use the list of contracted providers when
34 obtaining medical care, based upon the provider's refusal
35 to be included on any list of contracted providers that is
36 sold, leased, transferred, or conveyed to payors that do
37 not actively encourage the payors' beneficiaries to use the
38 list of contracted providers when obtaining medical care.

39 (e) A payor shall provide an explanation of benefits or
40 explanation of review that identifies the name of the



1 network that has a written agreement signed by the
2 provider whereby the payor is entitled, directly or
3 indirectly, to pay a preferred rate for the services
4 rendered.

5 (f) A payor shall demonstrate that it is entitled to pay
6 a contracted rate within 30 business days of receipt of a
7 written request from a provider who has received a claim
8 payment from the payor. The failure of a payor to do so
9 shall render the payor liable for the amount that the
10 payor would have been required to pay pursuant to the
11 beneficiary's policy with the payor, which amount shall
12 be due and payable within 10 days of receipt of written
13 notice from the provider, and shall bar the payor from
14 taking any future discounts from that provider without
15 the provider's express written consent until the payor can
16 demonstrate to the provider that it is entitled to pay a
17 contracted rate as provided in this subdivision. A payor
18 shall be deemed to have demonstrated that it is entitled
19 to pay a contracted rate if it complies with either of the
20 following:

21 (1) Discloses the name of the network that has a
22 written agreement with the provider whereby the
23 provider agrees to accept discounted rates, and describes
24 the specific practices the payor utilizes to comply with
25 paragraph (2) of subdivision (b).

26 (2) Identifies the provider's written agreement with a
27 contracting agent whereby the provider agrees to be
28 included on lists of contracted providers sold, leased,
29 transferred, or conveyed to payors that do not actively
30 encourage beneficiaries to use the list of contracted
31 providers pursuant to subdivision (c).

32 (g) For the purposes of this section, the following
33 terms have the following meanings:

34 (1) "Beneficiary" means:

35 (A) For automobile insurance, a named insured.

36 (B) For group or individual health care coverage
37 through a disability insurer, an insured.

38 ~~(C) For workers' compensation insurance, an~~
39 ~~employee seeking health care services for a work-related~~
40 ~~injury.~~



1 (2) “Contracting agent” means a self-insured
2 employer or an insurer licensed under this code to
3 provide disability, life, automobile, or workers’
4 compensation insurance, while engaged, for monetary or
5 other consideration, in the act of selling, leasing,
6 transferring, assigning, conveying, or arranging the
7 availability of a provider or provider panel to provide
8 health care services to beneficiaries.

9 (3) “Payor” means a self-insured employer or an
10 insurer licensed under this code to provide disability, life,
11 automobile, or workers’ compensation insurance, that is
12 responsible to pay for health care services provided to
13 beneficiaries.

14 (4) “Payor summary” means a written summary that
15 includes the payor’s name and the type of plan, including,
16 but not limited to, a group health plan, an automobile
17 insurance plan, and a workers’ compensation insurance
18 plan.

19 (5) “Provider” means any of the following:

20 (A) Any person licensed or certified pursuant to
21 Division 2 (commencing with Section 500) of the
22 Business and Professions Code.

23 (B) Any person licensed pursuant to the Chiropractic
24 Initiative Act or the Osteopathic Initiative Act.

25 (C) Any person licensed pursuant to Chapter 2.5
26 (commencing with Section 1440) of Division 2 of the
27 Health and Safety Code.

28 (D) A clinic, health dispensary, or health facility
29 licensed pursuant to Division 2 (commencing with
30 Section 1200) of the Health and Safety Code.

31 (E) Any entity exempt from licensure pursuant to
32 Section 1206 of the Health and Safety Code.

33 (i) This section shall become operative on July 1, 2000.

34 SEC. 4. Section 4609 of the Labor Code is amended to
35 read:

36 4609. (a) In order to prevent the improper selling,
37 leasing, or transferring of a health care provider’s
38 contract, it is the intent of the Legislature that every
39 arrangement that results in any payor paying a health
40 care provider a reduced rate for health care services



1 based on the health care provider's participation in a
2 network or panel shall be disclosed to the provider in
3 advance and shall actively encourage patients to use the
4 network, unless the health care provider agrees to
5 provide discounts without that active encouragement.

6 (b) Beginning July 1, 2000, every contracting agent
7 that sells, leases, assigns, transfers, or conveys its list of
8 contracted health care providers and their contracted
9 reimbursement rates to a payor or another contracting
10 agent shall, upon entering or renewing a provider
11 contract, do all of the following:

12 (1) Disclose whether the list of contracted providers
13 may be sold, leased, transferred, or conveyed to other
14 payors or other contracting agents, and specify whether
15 those payors or contracting agents include—~~workers'~~
16 ~~compensation insurers or automobile insurers.~~

17 (2) Disclose what specific practices, if any, payors
18 utilize to actively encourage beneficiaries to use the list
19 of contracted providers when obtaining medical care that
20 entitles a payor to claim a contracted rate. For purposes
21 of this paragraph, a payor is deemed to have actively
22 encouraged beneficiaries to use the list of contracted
23 providers if the employer of the beneficiaries provides
24 information directly to beneficiaries advising them of the
25 existence of the list of contracted providers through the
26 use of a variety of advertising or marketing approaches
27 that supply the names, addresses, and telephone numbers
28 of contracted providers to beneficiaries in advance of
29 sustaining a workplace injury, which approaches may
30 include, but are not limited to, the use of provider
31 directories, the use of a posted list of all contracted
32 providers in an area geographically accessible to the
33 posting site, the use of wall cards that direct beneficiaries
34 to a readily accessible listing of those providers at the
35 same location as the wall cards, the use of wall cards that
36 direct beneficiaries to a toll-free telephone number or
37 internet web site address, or the use of toll-free telephone
38 numbers or internet web site addresses supplied directly
39 to every beneficiary. However, internet web site
40 addresses alone shall not be deemed to satisfy the



1 requirements of this subparagraph. Nothing in this
2 subparagraph shall prevent contracting agents or
3 employers from providing only listings of providers
4 located within a reasonable geographic range of a
5 beneficiary.

6 (3) Disclose whether payors to which the list of
7 contracted providers may be sold, leased, transferred, or
8 conveyed may be permitted to pay a provider's
9 contracted rate without actively encouraging the payors'
10 beneficiaries to use the list of contracted providers when
11 obtaining medical care.

12 (4) Disclose, upon the initial signing of a contract, and
13 within 30 calendar days of receipt of a written request
14 from a provider or provider panel, a payor summary of all
15 payors currently eligible to claim a provider's contracted
16 rate due to the provider's and payor's respective written
17 agreements with any contracting agent.

18 Nothing in this subdivision shall be construed to require
19 a payor to actively encourage the payor's beneficiaries to
20 use the list of contracted providers when obtaining
21 medical care in the case of an emergency.

22 (c) A contracting agent shall allow providers, upon the
23 initial signing, renewal, or amendment of a provider
24 contract, to decline to be included in any list of contracted
25 providers that is sold, leased, transferred, or conveyed to
26 payors that do not actively encourage the payors'
27 beneficiaries to use the list of contracted providers when
28 obtaining medical care as described in paragraph (2) of
29 subdivision (b). Each provider's election under this
30 subdivision shall be binding on every contracting agent
31 or payor that buys, leases, or otherwise obtains a list of
32 contracted providers.

33 (d) A provider shall not be excluded from any list of
34 contracted providers that is sold, leased, transferred, or
35 conveyed to payors that actively encourage the payors'
36 beneficiaries to use the list of contracted providers when
37 obtaining medical care, based upon the provider's refusal
38 to be included on any list of contracted providers that is
39 sold, leased, transferred, or conveyed to payors that do



1 not actively encourage the payors' beneficiaries to use the
2 list of contracted providers when obtaining medical care.

3 (e) A payor shall provide an explanation of benefits or
4 explanation of review that identifies the name of the
5 network that has a written agreement signed by the
6 provider whereby the payor is entitled, directly or
7 indirectly, to pay a preferred rate for the services
8 rendered.

9 (f) A payor shall demonstrate that it is entitled to pay
10 a contracted rate within 30 business days of receipt of a
11 written request from a provider who has received a claim
12 payment from the payor. The failure of a payor to do so
13 shall render the payor liable for the lesser of the
14 provider's actual fee or, as applicable, the official medical
15 fee schedule, the official medical-legal fee schedule, or
16 the in-patient fee schedule, which amount shall be due
17 and payable within 10 days of receipt of written notice
18 from the provider, and shall bar the payor from taking
19 any future discounts from that provider without the
20 provider's express written consent until the payor can
21 demonstrate to the provider that it is entitled to pay a
22 contracted rate as provided in this subdivision. A payor
23 shall be deemed to have demonstrated that it is entitled
24 to pay a contracted rate if it complies with either of the
25 following:

26 (1) Discloses the name of the network that has a
27 written agreement with the provider whereby the
28 provide agrees to accept discounted rates, and describes
29 the specific practices the payor utilizes to comply with
30 paragraph (2) of subdivision (b).

31 (2) Identifies the provider's written agreement with a
32 contracting agent whereby the provider agrees to be
33 included on lists of contracted providers sold, leased,
34 transferred, or conveyed to payors that do not actively
35 encourage beneficiaries to use the list of contracted
36 providers pursuant to subdivision (c).

37 (g) For the purposes of this section, the following
38 terms have the following meanings:

39 (1) ~~“Beneficiary” means an employee seeking health~~
40 ~~care services for a work-related injury.~~



1 ~~(2)~~—“Contracting agent” means a self-insured
2 employer or an insurer licensed under the Insurance
3 Code to provide workers’ compensation insurance, while
4 engaged, for monetary or other consideration, in the act
5 of selling, leasing, transferring, assigning, conveying, or
6 arranging the availability of a provider or provider panel
7 to provide health care services to beneficiaries.

8 ~~(3)~~
9 (2) “Payor” means a self-insured employer or an
10 insurer licensed under the Insurance Code to provide
11 workers’ compensation insurance.

12 ~~(4)~~
13 (3) “Payor summary” means a written summary that
14 includes the payor’s name and the type of plan, including,
15 but not limited to, a group health plan, an automobile
16 insurance plan, and a workers’ compensation insurance
17 plan.

18 ~~(5)~~
19 (4) “Provider” means any of the following:

20 (A) Any person licensed or certified pursuant to
21 Division 2 (commencing with Section 500) of the
22 Business and Professions Code.

23 (B) Any person licensed pursuant to the Chiropractic
24 Initiative Act or the Osteopathic Initiative Act.

25 (C) Any person licensed pursuant to Chapter 2.5
26 (commencing with Section 1440) of Division 2 of the
27 Health and Safety Code.

28 (D) A clinic, health dispensary, or health facility
29 licensed pursuant to Division 2 (commencing with
30 Section 1200) of the Health and Safety Code.

31 (E) Any entity exempt from licensure pursuant to
32 Section 1206 of the Health and Safety Code.

33 (h) This section shall become operative on July 1, 2000.

